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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/990,270 | 11/23/2001 | Kazuo Horikawa | VX012386 | 2409 |

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| EXAMINER | |
|---|---|
| VAN PELT, BRADLEY J | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3682 | |

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/990,270 | HORIKAWA, KAZUO | |
| | Examiner | Art Unit | |
| | Bradley J Van Pelt | 3682 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *16 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *6-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabe (USPN 4,641,545) in view of Ojima (USPN 6,352,133).

Rabe discloses a lock lever device (10) for a working implement drive control system of a construction machine vehicle (see abstract, harvesters are construction machine vehicles), the construction machine vehicle comprising a drivers seat (inherent) and a passage way to the drivers seat (inherent) and the lock lever device comprises a locking lever (12), and a linkage (26) that links the locking lever and the control selector (clutch see column 2, line 53) together, the locking lever and the linkage providing a rocking stroke for operating the locking lever, the linkage including an idle motion stroke mechanism (26) for switching controllable and uncontrollable states at a point of the rocking stroke of the locking lever and for idling between the point of the rocking stroke and a first end point of the rocking stroke of the locking lever;

the locking lever includes an output lever (16); and the linkage includes an intermediate rocking lever link (26) responding to the rocking stroke of the locking lever, and a link rod (32) for transmitting motion from the intermediate rocking lever link to the control selector, and the linkage further includes a mechanism (64) engaging the output lever of the locking lever for pulling or pushing the intermediate rocking lever link between the point of the rocking stroke

and a second end point of the rocking stroke of the locking lever and for idling motion of the intermediate rocking lever between the point of the rocking stroke and the first end point of the rocking stroke of the locking lever;

the mechanism includes a cam pin (64) mounted on the output lever of the locking lever, and an arcuate cam groove formed in the intermediate rocking lever link, the arcuate cam groove receiving and guiding the cam pin of the output lever of the locking lever, and the arcuate cam groove including an action transmitting cam groove portion (60b) corresponding to the rocking stroke of the output lever of the locking lever for transmitting the pulling or pushing action to the intermediate rocking lever link, and an inaction transmitting cam groove portion (72) corresponding to the rocking stroke of the output lever of the locking lever for transmitting no motion the intermediate rocking lever link (26);

the locking lever includes a toggle spring (78) for biasing rocking action along the action transmitting cam groove portion and the inaction transmitting cam groove portion in opposite rocking directions from an intermediate position of the arcuate cam groove; working implement drive control system between controllable and uncontrollable states by operating the locking lever.

Rabe does not disclose the idle motion stroke occurs at a midway point of the rocking stroke; nor the locking lever blocking operator passage through the passageway when switched to the controllable state and permitting operator passage through the passageway and when switched to the uncontrollable state.

Ojima shows a locking lever (29) blocking operator passage (position A) through the passageway when switched to the controllable state and permitting operator passage through the

passageway and when switched to the uncontrollable state (position B) (see column 8, lines 29-51).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arcuate groove of Rabe so that the inaction portion occurs at midway point for design functionality, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

To modify the apparatus of Rabe so as to provide the lever in a blocking position during a controllable state and a non-blocking position during an uncontrollable state would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the teachings of Ojima that such an arrangement improves the ability to prevent the operator on the operator's seat from inadvertently getting off the cab (see column 8, line 51 in Ojima).

***Response to Arguments***

3. Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley J Van Pelt whose telephone number is 703.305.8176.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJVP

10/15/04

DAVID A. BUSH
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